IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6205 of 2007()

(CRIME NO.489/06 OF CHERPULLASSERI POLICE STATION)

PETITIONER:ACCUSED NO.7:

V.L.LAJEESH, AGED 27 YEARS,
S/O.VASUDEVAN, VADAPPURATH HOUSE,
P.O.KAZHIMBRAM, CHAVAKKAD TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.T.H.ABDUL AZEEZ

RESPONDENT: COMPLAINANT:

STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM REPRESENTING S.I.OF POLICE, CHERPULLASSERI POLICE STATION.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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B.A.No. 6205 of 2007

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Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. Petitioner faces allegations in a crime registered for offences punishable, inter alia, under Section 302 read with 149 IPC. Petition describes the petitioner as the 7th accused in the crime. The learned Public Prosecutor submits that the petitioner is arrayed not as the 7th accused but as the 10th accused. Investigation is in progress. The petitioner has not been arrested yet. He apprehends imminent arrest.

2. The alleged incident took place on 21.12.06. The father and mother of the 9th accused was allegedly murdered. In that crime, the deceased in the present crime is an accused. The 9th accused is alleged to have engaged persons to avenge the murder of his father and mother. The accused persons had allegedly entered into a conspiracy and had proceeded to the house of the deceased in the case. Deceased was brutally attacked with dangerous weapons. He had suffered as many as 115 injuries, submits the learned Public Prosecutor. The petitioner was allegedly one of the miscreants / conspirators who went to the house of the deceased armed with dangerous weapons and allegedly indulged in culpable overt acts. The alleged incident took place on 12.12.06. Investigation is not complete. The petitioner has been absconding and was not available for arrest.

3. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. According to him, the petitioner has not been named in the FIR. He has been arrayed as accused for no sufficient cause.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all available indications clearly point to the complicity of the petitioner who had actually taken up arms to liquidate the deceased. In any view of the matter, this is not a fit case where discretion under Section 438 can or ought to be invoked, submits the learned Public Prosecutor.

5. In the facts and circumstances of the case, I find merit in the opposition by the learned Public Prosecutor. There are no features, in this case suggesting the need for invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the learned Magistrate and seek regular bail in the ordinary and normal course.

6. In the result, this petition is dismissed. Needless to say, if the petitioner appear before the Investigating Officer or the learned Magistrate and applies for bail,after giving sufficient prior notice to the Prosecutor, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE